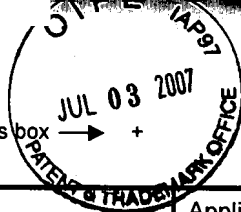


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HDP/SB/21 based on PTO/SB/21 (08-00)



WAF

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Application Number	09/850,301
Filing Date	May 7, 2001
Inventor(s)	Mark A. Terrible
Group Art Unit	2141
Examiner Name	Le H. Luu
Attorney Docket Number	129250-002069/US

ENCLOSURES (check all that apply)

<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Request For Reconsideration <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Assignment Papers (for an Application) <input type="checkbox"/> Letter to the Official Draftsperson and _____ Sheets of Formal Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Change of Correspondence Address and Revocation/POA <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> LETTER SUBMITTING APPEAL BRIEF AND APPEAL BRIEF (w/clean version of pending claims) <input checked="" type="checkbox"/> Appeal Communication to Group (Notice of Appeal, Appeal Brief, <u>Supplemental Reply Brief</u>) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below):		
<table><tr><td>Remarks</td><td></td></tr></table>			Remarks	
Remarks				

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	CAPITOL PATENT & TRADEMARK LAW FIRM, PLLC	Attorney Name John E. Curtin	Reg. No. 37,602
Signature	John E. Curtin, Registration No. 37,602		
Date	July 3, 2007		



THE U.S. PATENT AND TRADEMARK OFFICE

Application No.: 09/850,301

Filing Date: May 7, 2001

Applicant: Mark A. Terrible

Group Art Unit: 2141

Confirmation No: 2198

Examiner: Le Hein Luu

Title: TECHNIQUE FOR ANALYZING INTERNET TRAFFIC TO
SELECT HOT SPOTS

Attorney Docket: 129250-002069/US

APPLICANT'S SUPPLEMENTAL REPLY BRIEF ON APPEAL

MAIL STOP APPEAL BRIEF - PATENTS

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

July 3, 2007

In response to the Examiner's Substitute Answer mailed June 4, 2007 the Applicant submits the following Reply.

7 **BACKGROUND:**

In the Examiner's Supplemental Answer mailed June 4, 2007 the Examiner now includes U.S. Patent Publication No. 2001/0034792 to Swildens as part of the evidence the Examiner is relying upon. To the extent that the Examiner's Substitute Answer is permitted as of right (i.e., without first asking the Board for permission or providing Applicant with notice), Applicant does not oppose this submission. In all other respects, Applicant reserves its right to oppose this additional submission if, and when, it is necessary.

The balance of Applicant's Reply remains the same as his original Reply.

ARGUMENTS:

**(i) Chauvel Does Not Disclose or Suggest
"Replaceable and Irreplaceable" Entries**

As the Appellant pointed out in his opening brief, the Examiner does not appear to have addressed the shortcomings of Chauvel raised by the Appellant in his previous responses; this is still the case because the Examiner did not address these shortcomings in the Examiner's Answer ("Answer") as well.

In the Answer, the Examiner appears to take the position that although neither Percy nor Doyle discloses or suggests the selection of an entry from a set of replaceable entries in a table, where the table includes both replaceable and irreplaceable entries as in claims 1-15 and 37-40, such a table is nonetheless well-known as exemplified by Chauvel. The Examiner cites column 1, lines 46-52 in Chauvel in support of this position.

However, neither the excerpts cited by the Examiner nor any other part of Chauvel discloses or suggests a table that includes both replaceable and irreplaceable entries.

In fact, as the Appellant pointed out in his opening appellate brief, while the excerpt cited by the Examiner appears to disclose some type of irreplaceable entry (e.g., Chauvel's "locked entries") it does not disclose or suggest replaceable entries.

Further, Chauvel explicitly states that a cache system that uses such locked entries is undesirable because it further reduces the efficiency of a cache. Said another way, Chauvel explicitly teaches away from using irreplaceable entries to operate a cache.

Yet further, instead of using replaceable and irreplaceable entries to store data in a cache or the like, Chauvel appears to use and/or configure additional cache "subsystems" or "RAM set caches". As such, Chauvel has little need to use or distinguish between replaceable and irreplaceable entries because when Chauvel needs additional cache space it uses additional cache memory, instead of writing over or replacing, replaceable data.

In sum, rather than being well-known as the Examiner alleges, the claimed selection of an entry from a set of replaceable entries in a table, where the table includes both replaceable and irreplaceable entries, is novel. Because the Examiner has not presented any persuasive evidence to the contrary, the

Appellant respectfully requests that the members of the Board reverse the decision of the Examiner and allow claims 1-15 and 37-40.

(ii) Peercy Does Not Disclose or Suggest An "Audio File"

In Appellant's opening brief, the Appellant pointed out that the excerpt from Peercy (column 2, lines 19-31) relied on by the Examiner did not disclose an audio file, cached resource as in claims 38, 40 and 42.

In the Answer the Examiner takes the position that Peercy's mention of an HTML page is an inherent disclosure of a multimedia, audio file. Appellant respectfully disagrees.

First, Peercy is directed to the creation of web page "hotlists" and the "bookmarking" of URLs of web sites. It is not directed to the caching of audio or multimedia files.

Second, while an HTML-formatted page may include audio information, by no means is the phrase "HTML" synonymous with such information, nor must an HTML page include such information, as the Examiner appears to suggest.

For the Board's reference, the following Wikipedia definition (see <http://en.wikipedia.org/wiki/HTML>) for HTML does not refer to audio or multimedia information; in fact, it defines HTML as a "means to describe the structure of text-based information":

HTML, short for *Hypertext Markup Language*, is the predominant markup language for the creation of web pages. It provides a means to describe the structure of text-based information in a document — by denoting certain text as headings, paragraphs, lists,

and so on — and to supplement that text with interactive forms, embedded images, and other objects. HTML is written in the form of labels (known as tags), surrounded by less-than (<) and greater-than signs (>). HTML can also describe, to some degree, the appearance and semantics of a document, and can include embedded scripting language code which can affect the behavior of web browsers and other HTML processors.

Accordingly, the Appellant respectfully requests that the members of the Board reverse the decision of the Examiner and allow claims 38, 40 and 42.

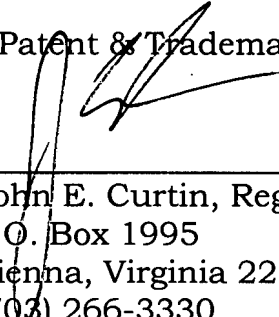
Conclusion:

For the reasons stated above and in Appellant's opening brief, the Appellant respectfully requests that the members of the Board reverse the decision of the Examiner and allow claims 1-20, 22-31 and 33-42.

Respectfully submitted,

Capitol Patent & Trademark Law Firm, PLLC

By:



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